

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
7:08-CR-65-BO-1

UNITED STATES OF AMERICA

v.

ARTURO SALGADO,

Defendant.

)
)
)
)
)
)
)

ORDER


This case comes before the court on defendant's motion for a free copy of his sentencing transcript (D.E. 24) and his application to proceed *in forma pauperis* under 28 U.S.C. § 1915 (D.E. 25) submitted in support of his motion. Defendant was sentenced on 16 December 2008 (D.E. 19). Defendant does not have any proceeding currently pending in this case or in this court. Without a pending proceeding, defendant cannot be provided a free transcript under 28 U.S.C. § 753(f).¹ See *United States v. Webb*, 54 Fed. Appx. 588, *1 (4th Cir. 2003) (affirming district court's denial of a free transcript where defendant had not filed his § 2255 petition (citing *United States v. Horvath*, 157 F.3d 131, 132 (2d Cir. 1998) ("Based on the plain language and necessary operation of the statute, we conclude that a motion for a free transcript pursuant to § 753(f) is not ripe until a [28 U.S.C.] § 2255 motion has been filed."))); see also *United States v.*

¹ 28 U.S.C. § 753(f) provides, in relevant part, as follows:

Fees for transcripts furnished in criminal proceedings to persons proceeding under the Criminal Justice Act (18 U.S.C. 3006A), or in habeas corpus proceedings to persons allowed to sue, defend, or appeal in forma pauperis, shall be paid by the United States out of moneys appropriated for those purposes. Fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal. Fees for transcripts furnished in other proceedings to persons permitted to appeal in forma pauperis shall also be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question).

Shoaf, 341 F.2d 832, 833-34 (4th Cir. 1964) (“An indigent is not entitled to a transcript at government expense without a showing of the need, merely to comb the record in the hope of discovering some flaw.”) (quoting *United States v. Glass*, 317 F.2d 200, 202 (4th Cir. 1963)). Because defendant does not have any proceeding currently pending, the motion for a free copy of his sentencing transcript (D.E. 24) is DENIED. Because defendant’s application to proceed *in forma pauperis* was filed in support of the motion, the application (D.E. 25) is DENIED AS MOOT.

SO ORDERED, this the 25th day of January 2012.



James E. Gates
United States Magistrate Judge